IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1068 OF 2005

Karad Nagar Parishad, Karad ...Appellant

Versus

Executive Engineer,
Maharashtra Jeevan Pradhikaran, Karad. ...Respondent

Shri A.M.Kulkarni for the Appellant.
Mrs Neeta Karnik for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 12, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. By consent taken up for hearing. The Appellant filed an Application under section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the said Act of 1996) for setting aside the Award of Arbitral Tribunal. By the impugned order dated 03rd October, 2005 the learned Civil Judge, Senior Division, Karad returned the Application for presentation to proper Court by holding that the Application ought to have been filed in appropriate District Court.

2. There were conflicting views taken by the learned single Judges of this Court on interpretation of the word "Court" within the meaning of section 2(e) of the said Act of 1996. Therefore, the issue was referred

to a Full Bench of this Court. Infact, this Appeal was also referred to the Full Bench. By Judgment and Order dated 12th April, 2007, now the issue has been decided by holding that the Principal Civil Court of original jurisdiction in a District Court for the purpose of a Petition under section 34 of the said Act of 1996 is the District Court and does not include any other Court inferior to the District Court. The view taken by the learned trial Judge is therefore legal and proper.

3. The learned Advocate appearing for the Appellant submitted that the Appellant will be entitled to benefit of section 14 of the Limitation Act, 1963. In a recent decision, the Apex Court has held that provisions of section 14 of the said Act of 1963 are applicable to the proceedings under section 34 of the said Act of 1996. Since there was a divergence of opinion on the interpretation of the word "Court", the issue was required to be referred to the larger bench. It is, therefore, obvious that the benefit of section 14 of the Limitation Act, 1963 will be certainly available to the Applicant on facts of the case. However, the Appellant will have to take back the Application from the Civil Court and will have to file the same in the appropriate District Court within period of four weeks from today. The learned counsel for the respondent submitted that it is the contention of the Respondent that the Application

filed by the Appellant before the Court of the Civil Judge, Senior Division was itself barred by limitation. The said contention will be obviously considered by the District Court.

4. Hence, I pass the following order:

(i) Subject to observations made above, the Appeal is dismissed.

(ii) It will be open for the Appellant to take back the Application and to present it before the appropriate District Court within a period of four weeks from today.

(iii) The Application of the Appellant will be decided expeditiously in accordance with law.

(iv) All contentions of the parties on merits of the Application under section 34 of the said Act of 1996 are expressly kept open.

(v) Parties and the concerned Court to act upon an authenticated copy of the said order.

JUDGE